

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EAST KENTUCKY)	
NETWORK LIMITED LIABILITY COMPANY FOR)	CASE NO.
THE ISSUANCE OF A CERTIFICATE OF)	2009-00064
PUBLIC CONVENIENCE AND NECESSITY TO)	
CONSTRUCT A TOWER IN LETCHER)	
COUNTY, KENTUCKY)	

O R D E R

On March 6, 2009, East Kentucky Network, LLC d/b/a Appalachian Wireless ("East Kentucky") filed an application requesting issuance of a Certificate of Public Convenience and Necessity ("CPCN") to construct, maintain, and operate a wireless telecommunications facility ("Cell Facility") located at Dry Fork, Letcher County, Kentucky, in an area that East Kentucky states is unzoned and outside the jurisdiction of a local planning commission. By Commission Order dated April 20, 2009, Lee Etta Cummings ("Intervenor") was granted full intervention, since her property is located near the tower and she may be able to assist in the development or presentation of facts or issues before the Commission.

On April 23, 2009, an informal conference was held to discuss the Intervenor's concerns about the Cell Facility. The Intervenor filed a report which provided appraised values of her property both prior to the cell tower construction and after its completion ("Appraisal Report"). East Kentucky shall have until May 13, 2009 to file a response to

the Appraisal Report. A memorandum has been filed in the case summarizing the events that took place during that conference.

The Intervenor is hereby notified that she will have a period of 20 days from the date of this Order to submit to the Commission and East Kentucky a list of specific potential and suitable alternative locations, other than the proposed site named in the application, where the proposed Cell Facility might be located. The Intervenor must provide enough detail on the location of each suitable alternative site to enable East Kentucky to readily pinpoint those areas. If the Commission determines that a hearing will be held in this matter, the Intervenor may not introduce evidence during the hearing regarding any other alternative locations for the proposed tower, except the specific locations provided to the Commission and to East Kentucky in accordance with this Order. With the list of suitable alternative sites, the Intervenor must also state whether she intends to appear at a formal hearing, if scheduled, in this proceeding to present evidence against the construction of the proposed Cell Facility.

Responses by East Kentucky to the Intervenor's potentially suitable and acceptable alternative locations shall be filed with the Commission and served on the Intervenor, by and through her counsel, within 15 days of the filing of the Intervenor's list of alternative locations. East Kentucky should include in its response a report of its view of each location, supported by information of a technical nature and evidence concerning the availability and technical feasibility of such location.

After receiving information from the Intervenor regarding potential alternative sites and East Kentucky's response thereto, along with East Kentucky's response to the Appraisal Report filed by the Intervenor at the informal conference, the Commission

shall review the pleadings and determine if a formal hearing shall be scheduled. The Commission's determination on scheduling of a hearing shall be addressed by separate Order.

The issues to be addressed at a hearing, if one is scheduled, include: (1) the public convenience and necessity for the construction and operation of the Cell Facility; (2) the design, engineering, and construction of the Cell Facility (jurisdictional safety issues); (3) character of the general area concerned and the likely effects of the installation of the proposed Cell Facility on nearby land uses and values; (4) any suitable and acceptable alternative or collocation site, other than the proposed site in the CPCN application as ordered herein, that has been properly and timely filed with East Kentucky and the Commission; and (5) any other issues that might arise during the course of the hearing.

The Commission, being otherwise sufficiently advised, HEREBY ORDERS that:

1. East Kentucky shall have until May 13, 2009 to file a response to the Appraisal Report provided by the Intervenor at the informal conference.

2. The Intervenor shall file with the Commission, within 20 days of the date of this Order, a list of specific, suitable, and acceptable alternative locations, other than the proposed site, where the proposed Cell Facility might be located or constructed. The Intervenor shall not produce evidence regarding any suitable and acceptable alternative sites at the hearing except those locations of record properly identified in this paragraph.

3. With the list of alternative Cell Facility locations, the Intervenor shall also file with the Commission a statement of whether she intends to appear at a formal

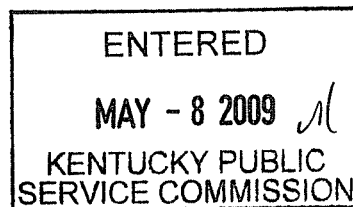
hearing, if scheduled, in this proceeding to present evidence against the construction of the proposed Cell Facility.

4. The Intervenor shall file an original and five copies of all statements, pleadings, and evidence with the Commission. A copy of those same statements, pleadings, and evidence shall also be served on East Kentucky, by and through East Kentucky's counsel of record in this proceeding.

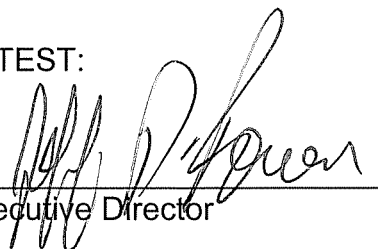
5. East Kentucky shall have a period of 15 days from the date of the Intervenor's filing of the information described above to respond to the Intervenor's proposed alternative locations.

6. The Federal Communications Commission has exclusive jurisdiction over issues regarding radio frequency, interference, and radio frequency emissions. This Commission will not receive any evidence regarding this matter in a hearing, if so scheduled, because it is without authority to consider such evidence.

By the Commission



ATTEST:


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